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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,836	10/13/2006	Koen De Winter	26800.002	3756
26274	7590	03/26/2007	EXAMINER	
COWAN LIEBOWITZ & LATMAN P.C. 1133 AVENUE OF THE AMERICAS 1133 AVENUE OF THE AMERICAS NEW YORK, NY 10036			NGUYEN, JIMMY T	
		ART UNIT	PAPER NUMBER	3725
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	03/26/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/556,836	DE WINTER ET AL.	
	<b>Examiner</b> Jimmy T. Nguyen	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 November 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 15 November 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

The drawings are objected to because figure 5 fails to show a lead line for reference number "12". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Specification*

**The abstract of the disclosure is objected to** because it does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, **apart from any other text.**

**The disclosure is objected to** because it fails to include section headings.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

**Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, lines 2-3, 4, and 6-7, the recitations “the said surface” are confusing, the Examiner suggests; “said surface”.

Regarding claim 1, line 5, the recitation “means coupling” is confusing. The Examiner suggests: “a means for coupling”.

Regarding claim 1, last line, there is insufficient antecedent basis for the limitation “the registering apertures (emphasis added)” in the claim.

Regarding claim 3, line 2, the recitation “the said surface” is confusing. The Examiner suggests; “the surface”.

Regarding claim 3, line 3, there is insufficient antecedent basis for the limitation “the base” in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, and 4, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Lai (US 5,090,309).**

Regarding claim 1, Lai discloses a compacting mechanism for fitting over a surface of a refuse container (10, 11, see fig. 2), the compacting mechanism comprising: a support member (20) for fitting over the surface (fig. 2), the support member having an aperture (24) which in use is in register with an aperture in the surface (fig. 2), a compacting plate (40) mounted under the support member (fig. 2), an actuating rod (30), and means for coupling (42) the compacting plate to the actuating rod (fig. 3) so that the rod may be manoeuvred from a storage position (fig. 1) wherein the rod lies along the support member across the surface (fig. 1) and the rod is drawn up under the surface (fig. 3) to an operative position wherein the rod stands upright over the aperture in the lid (fig. 4) wherein the rod stand upright over the aperture (fig. 4) in the support member and may be pushed downwardly through the registering aperture to push the plate down into the container

Regarding claim 2, the compacting plate is slidably and pivotally coupled to the actuating rod (col. 3, lines 12-15) such that in the storage position of the rod the plate is coupled to the rod at a point intermediate its ends (fig. 3), the rod being manoeuvrable to its operative position by sliding the rod along its own axis until a coupling means (fig. 4) reaches one end of the rod and then rotating the rod upwardly about said one end (fig. 4).

Regarding claim 4, the other end of the actuating rod has a handgrip (32).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 3 and 8, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai, in view of Massonnet (US 4,658,720).**

Lai discloses the invention substantially as claimed as set forth above except for the type compacting mechanism having a support member with a channel for receiving the actuating rod. Lai discloses the actuating rod is positioned on top of the support member and an end of the actuating rod has a handgrip (32). However, the patent to Massonnet, in a closely related art, teaches a compacting mechanism (4, 6) comprising: a support member (3) having a channel (3a) for accommodating an actuating rod (6) and the actuating rod having a handgrip (6b) at one end. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Lai, with the type of compacting mechanism having a channel in a support member, as taught by Massonnet, in order to store the actuating rod within the support member and to improve the storing of the apparatus by saving space.

**Claims 5, 6, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai, in view of Ernst (US 6,889,604).**

Lai discloses the invention substantially as claimed as set forth above. Lai discloses the actuating rod but the actuating rod is not adjustable in length. However, the patent to Ernst, in a closely related art, teaches a compacting mechanism (36, 38, 40, 42) having an actuating rod (38A, 38B) having two parts (38A, 38B) which having one of the parts (38B) slidable relative to the other part (38A) (fig. 4) to adjust a length of the rod (col. 3, lines 29-36). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the actuating rod of Lai, with two parts, as taught by Ernst, in order to ease a compacting operation for users with different heights by adjusting the length of the actuating rod.

**Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai and Massonnet, in further view of Ernst (US 6,889,604).**

Lai, as modified by Massonnet, discloses the invention substantially as claimed as set forth above. Lai discloses the actuating rod but the actuating rod is not adjustable in length. However, the patent to Ernst, in a closely related art, teaches a compacting mechanism (36, 38, 40, 42) having an actuating rod (38A, 38B) having two parts (38A, 38B) which having one of the parts (38B) slidable relative to the other part (38A) (fig. 4) to adjust a length of the rod (col. 3, lines 29-36). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the actuating rod of Lai, with two parts, as taught by Ernst, in order to ease the compacting operation for users with different heights by adjusting the length of the actuating rod.

***Allowable Subject Matter***

Claims 7 and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6,851,357; US 6,314,874 and DE 29919933.

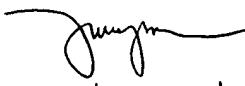
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy T. Nguyen whose telephone number is (571) 272-4520.

The examiner can normally be reached on Monday-Thursday 7:30am-5:00pm with alternating Friday 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272- 4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTNguyen  
March 16, 2007

  
JIMMY T. NGUYEN  
AU3725 - EXAMINER